

**REMARKS**

Claims 1-19 are pending in this application. By this Amendment, claims 1 and 14 are amended. The amendments introduce no new matter because they are made to correct informalities noted by the Office Action. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

Applicants appreciate the courtesies shown to Applicants' representative by Examiner Qin in the April 23, 2008 telephone interview. Applicants' separate record of a summary of the substance of the telephone interview is discussed below.

The Office Action, on page 2, rejects claims 1-19 under 35 U.S.C. §112, second paragraph, as being indefinite. This rejection is respectfully traversed. Independent claims 1 and 14 are amended to obviate the rejection. Applicants' representative discussed the amendments to claims 1 and 14 with Examiner Qin during the April 23 telephone interview. The Examiner indicated his belief that the amendments overcome the §112 rejection of the pending claims.

Accordingly, reconsideration and withdrawal of the rejection of claims 1-19 under 35 U.S.C. §112, second paragraph, are respectfully requested.

The Office Action, in paragraph I, rejects claims 1, 2, 14 and 15 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,801,773 to Ikeda. The Office Action, in paragraph II, rejects claims 3, 9-13, 16, 18 and 19 under 35 U.S.C. §103(a) as being unpatentable over Ikeda in view of U.S. Patent No. 5,737,620 to Sato. The Office Action, in paragraph III, rejects claims 4-8 and 17 under 35 U.S.C. §103(a) as being unpatentable over Ikeda in view of Sato and further in view of U.S. Patent Application Publication No. 2001/0053295 to Kurijai et al. (hereinafter "Kurijai"). These rejections are respectfully traversed.

Claim 1 recites, among other features, wherein when third image data is present on which said predetermined image processing will be performed, said third image data being image data having identity with said first image data and including a portion different from said first image data, said image processing unit performs said predetermined image processing upon said different portion between said third image data and said first image data so as to generate fourth image data. Independent claim 14 recites similar features. Ikeda cannot reasonably be considered to teach, or to have suggested, at least these features despite the assertions to the contrary in the Office Action.

The Office Action asserts that Ikeda teaches that various images of differing luminance levels can be combined. The Office Action then asserts that in view of this teaching of Ikeda, it would have been obvious to one of ordinary skill in the art to combine images in a manner such as that recited in claim 1 to obtain the desired result. The analysis of the Office Action fails for at least the following reasons.

The Office Action merely concludes that it would have been obvious to one of ordinary skill in the art to combine the various images of Ikeda to obtain the desired result. Applicants do not believe that the mere conclusory statement set forth in the Office Action provides a basis upon which to formulate an obviousness rejection.

Ikeda teaches an image data processing apparatus for processing combined image signals in order to extend dynamic range (Abstract). Ikeda notes, that as the dynamic range of a solid-state image sensing device is smaller than that of a device using, for example, silver chloride, image quality may be degraded depending upon image-sensing conditions (col. 1, lines 12-15). Ikeda then seeks to provide an image data processing apparatus that obtains high-quality image data with an enlarged dynamic range (col. 2, lines 55-57). In Ikeda, an image processing apparatus combines standard image and a non-standard image to generate an image with a wider dynamic range (col. 2, lines 65-67).

With reference to, for example Fig. 5, the bar indicated as 9 represents 8-bit image data from an A/D converter 5 obtained by converting an image signal obtained by an image sensing device 3 with standard exposure. This image data obtained is referred to as "standard image" data. Similarly, bars 10 and 10' represent image data obtained with increased exposure, referred to as "bright image" data. Bars 11 and 11' represent image data obtained with decreased exposure, referred to as "dark image" data (see col. 8, lines 23-30). Upon combining images of different luminance values, the respective luminance values must correspond to each other as described in Ikeda at col. 8, lines 45-48. In other words, Ikeda obtains standard image data, bright image data and dark image data by photographing an object while changing a light amount from the object, i.e., while increasing and/or decreasing exposure.

With reference to the standard image data 9 of Ikeda and the bright image data 10 of Ikeda the Office Action alleges that these differing image data representations can reasonably be considered to correspond to first image data and second image data as recited in the claims. This analysis is incorrect. The bright image data 10 is not generated from the standard image data 9, but is obtained by performing another photographing process that is different from the photographing process to obtain the standard image data 9. As such, there is no reasonable construction, given these disclosures of Ikeda, that can reasonably be considered to teach, or to have suggested, an image processing unit for performing predetermined image processing upon first image data so as to obtain second image data as is positively recited, among other features, in independent claim 1, and similarly in independent claim 14.

Further, with reference to Figs. 5 and 6, Ikeda describes generating a bright image 10', 16' from a bright image 10, 16. The level adjustment in Fig. 5 is performed by the slide operation depicted in Fig. 6 and the difference between the image data of the reference points

is applied to all pixels of, for example, the bright image. In this manner, Ikeda performs the slide operation for all the pixels of the bright image 10, 16. The slide operation is performed for the dark image 11 in a similar manner in order to generate a dark image 11'.

Based on the above positive disclosures of Ikeda, it is unreasonable to assert that Ikeda can reasonably be considered to teach, or to have suggested, a featured when third image data on which said predetermined image processing will be performed includes a portion different from said first image data, said image processing unit performs said predetermined image processing upon said different portion between said third image data and said first image data so as to generate fourth image data, as recited, among other features, in independent claims 1 and 14. In this regard, there is no suggestion in Ikeda that processing is performed on anything that can reasonably be considered to correspond to "said different portion" of any image data.

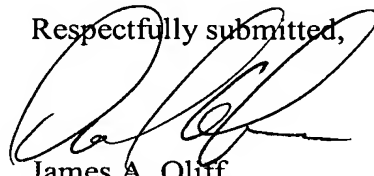
Applicants' representative presented the above arguments to Examiner Qin during the April 23 telephone interview. The Examiner indicated that he understood the distinctions that Applicants' representative was making. The Examiner indicated his belief that the subject matter of the pending claims was likely distinguishable over the Ikeda reference. The Examiner indicated that he would have to conduct an updated search in view of Applicants' arguments.

For at least the foregoing reasons, Ikeda, even in combination with the other applied references, cannot reasonably be considered to teach, or to have suggested, the combinations of all of the features positively recited in independent claims 1 and 14. Further, claims 2-13 and 15-19 are also neither taught, nor would they have been suggested, by any combination of the applied references for at least the respective dependence of these claims directly or indirectly on allowable base claims, as well as for the separately patentable subject matter that each of these claims recites.

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-19 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number set forth below.

Respectfully submitted,



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JAO:DAT/cfr

Attachment:  
Petition for Extension of Time

Date: April 30, 2008

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